United Nations A/C.5/64/SR.19

General Assembly
Sixty-fourth session

Official Records

Distr.: General
8 February 2010

Original: English

Fifth Committee

Summary record of the 19th meeting
Held at Headquarters, New York, on Thursday, 10 December 2009, at 10 a.m.

Chairman: Ms. Wairatpanij (Vice-Chairman) ..... (Thailand)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Ms. McLurg

Contents

Agenda item 143: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Agenda item 144: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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In the absence of Mr. Maurer (Switzerland), Ms. Wairatpanij (Thailand), Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

Agenda item 143: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/64/478, A/64/538 and A/64/555)

Agenda item 144: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/64/476, A/64/512 and A/64/555)

1. **Mr. Yamazaki** (Controller), introducing the report of the Secretary-General on the proposed budget for the International Criminal Tribunal for Rwanda for the biennium 2010-2011 (A/64/478), said that the proposed budget had been prepared taking into account the revised and updated version of the Tribunal's completion strategy, as outlined in the report of the Tribunal's President to the Security Council (S/2009/247).

2. The Tribunal continued to face a variety of challenges, including fair trial concerns, staffing constraints and parallel assignment of judges to several ongoing trials, that had affected the duration of trials and judgement drafting. The Tribunal nonetheless remained committed to completing the majority of trial work by the end of 2010, although the drafting of judgements in some five cases was projected to spill over into 2011. It was anticipated that judgement drafting in the ongoing trials of 25 accused, as well as in the anticipated trials of at least six others, could be concluded by the end of 2010.

3. The referral of cases from the Tribunal to national jurisdictions for trial remained a key pillar of the completion strategy. The Office of the Prosecutor was considering additional measures to ensure the timely completion of trials and to further reduce the possibilities for the emergence of an impunity gap.

4. The Tracking Team of the Office of the Prosecutor continued to intensify its efforts to locate the remaining fugitives still at large. Of the 11 indicted persons still at large, eight would be transferred to national jurisdictions for trial. The remaining three high-level fugitives would be tried at the Tribunal because of their leadership roles during the 1994 genocide. The resource requirements related to the trials of those three fugitives and of a fourth high-priority fugitive, who had been arrested shortly after the issuance of the report, were not reflected in the trial schedule or the related budget proposal. Estimates in respect of those fugitives would be addressed in accordance with established budgetary procedures as and when necessary.

5. In addition to those trials, the Office of the Prosecutor anticipated an increase in the workload of its Appeals and Legal Advisory Division, which would take up the applications and appeals from the several judgements that were expected to be delivered in 2009 and 2010.

6. The overall resources required for the Tribunal for the biennium 2010-2011 amounted to $244,085,700 gross ($226,618,500 net) before recosting, reflecting a decrease of $61,292,900 gross, or 20.1 per cent ($55,978,600 net, or 19.8 per cent), compared with the revised appropriation for the biennium 2008-2009. The proposal provided for the retention of 628 posts, representing a decrease of 65 posts (22 Professional and 43 General Service), or 9.4 per cent, from the current authorized staffing level of 693.

7. In addition to the budgetary provisions for the operational aspects of the Tribunal, the overall resource requirements included provisions for the continuation of the redaction and digitization of all audio-visual materials, including archiving of records of the Office of the Prosecutor ($6,626,300), and the accrued liabilities related to pensions of retired judges ($18,421,000).

8. In the second performance report on the budget of the International Criminal Tribunal for Rwanda for the biennium 2008-2009 (A/64/538), the Secretary-General proposed a final appropriation of $304,538,000 gross ($279,372,600 net), which reflected a decrease of $840,600 gross ($3,224,500 net) compared with the revised appropriation approved by the General Assembly in its resolution 63/254. The net reduction was the result of reduced requirements under post

incumbency and other changes ($3,276,000 gross ($5,500,100 net)), partially offset by additional requirements resulting from the combined effect of exchange rates and inflation ($2,435,400 gross ($2,275,600 net)).

9. Turning to the report of the Secretary-General on the proposed budget for the International Tribunal for the Former Yugoslavia for the biennium 2010-2011 (A/64/476), he said that five main developments would affect the Tribunal's workload in 2010-2011: the continuation of a seventh trial in the first three quarters of 2010; the high complexity of trials and appeals in multiple-accused cases; the completion of seven first-instance trials during the biennium; an increase in the number and complexity of interlocutory appeals and appeals on merits; and a reduction in first-instance trial activity as from the third quarter of 2010.

10. The Tribunal anticipated that, of the eight trials scheduled for the biennium 2010-2011, involving 15 accused, five would be completed in 2010 and an additional two in the first quarter of 2011, with the remaining trial extending through February 2012. The delays foreseen in estimated completion dates were for the most part attributable to the late arrest of fugitives, whose trials would otherwise have been joined with others relating to the same crime base. Those delays, in turn, would have an impact on appellate activity, which, according to estimates based on the workload of the Appeals Chamber, would not be completed prior to 2013.

11. Should the actual trial schedule diverge significantly from the one used to formulate the 2010-2011 budget proposal, resource requirements would have to be reassessed and realigned and any additional requirements would be addressed in the context of the performance reports for the biennium 2010-2011. In addition, the trial schedule and the related budget proposal did not take into account the resource requirements related to the trials of the two fugitives who remained at large.

12. The overall resources required for the Tribunal for the biennium 2010-2011 amounted to $301,895,900 gross ($279,847,400 net) before recosting, reflecting a net decrease in real terms of $74,337,000 gross, or 19.8 per cent ($62,219,600 net, or 18.2 per cent), compared to the revised appropriation for the biennium 2008-2009 ($376,232,900 gross).

13. For the biennium 2010-2011, the proposal provided for the retention of 546 temporary posts, reflecting a gradual decrease of 186 posts (86 Professional, 52 General Service and 48 Security Service), or 25 per cent, from the current authorized staffing level of 732. The functions of the abolished posts were to be gradually phased out. To ensure that the Tribunal had the flexibility to accelerate or decelerate the phasing out of individual posts, it was proposed that 35 posts should be abolished as at 1 January 2010 and a further 151 posts as at 1 January 2011, but that funding should be provided through general temporary assistance so that critical functions of the posts could be maintained in order to support the trials to be held and completed at different times during the biennium.

14. The budget proposal also provided for the redeployment and/or reclassification of a number of posts (A/64/476, paras. 72-75). The reduction in the number of posts would allow the Tribunal to close one of its three buildings in The Hague (Annex Building) by the end of March 2011.

15. The overall resource requirements for the biennium 2010-2011 also included provisions for the redaction and digitization of all audio-visual materials, including archiving of records of the Office of the Prosecutor and administrative records ($3,786,300), and the accrued liabilities related to pensions of retired judges and surviving spouses ($20,171,000).

16. In the second performance report on the budget of the International Tribunal for the Former Yugoslavia for the biennium 2008-2009 (A/64/512), the Secretary-General proposed a final appropriation of $388,888,300 gross ($345,690,900 net), which reflected an increase of $12,655,400 gross ($3,623,900 net) compared with the revised appropriation approved by the General Assembly in its resolution 63/255. The increase in requirements was the result of an increase due to exchange rate fluctuations ($11,209,400 gross ($10,584,000 net)) and an increase in post incumbency and other changes ($2,207,700 gross (decrease of $6,077,200 net)), partially offset by a decrease resulting from the effect of inflation ($761,700 gross ($882,900 net)).

17. **Mr. Kelapile** (Vice-Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/64/555), said that the

proposed budgets for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia for the biennium 2010-2011 reflected the anticipated reduction in trial activity as the Tribunals moved towards completion of their work and reduced their staffing levels. Both Tribunals expected to complete nearly all first instance trials by the end of 2011, with appeals continuing into 2012.

18. The budget proposals for the Tribunals for the biennium 2011-2012 also included a one-time provision under grants and contributions to finance liabilities for the future payment of pensions to judges and surviving spouses. The current value of the accrued pension liability for future benefits as at 31 December 2011 was estimated at $18,421,000 for the International Criminal Tribunal for Rwanda and $20,171,000 for the International Tribunal for the Former Yugoslavia. The Advisory Committee recommended that the funding of those liabilities should be addressed in the final budget submissions and performance reports of the Tribunals. Such an approach was similar to the one that had been recommended by the Advisory Committee in its report on the funding of the Tribunals' long-term after-service health insurance liabilities (A/64/7/Add.4).

19. The Advisory Committee recommended approval of the remaining budget proposals related to the operations of the Tribunals in the biennium 2010-2011.

20. The Advisory Committee also noted that work on legacy issues and the proposed residual mechanism had been initiated, in consultation with the Office of Legal Affairs and the Security Council's Informal Working Group on Tribunals.

21. **Ms. Håkansson** (Sweden), speaking on behalf of the European Union, the candidate countries Croatia and the former Yugoslav Republic of Macedonia, the stabilization and association process country Albania and, in addition, Armenia, the Republic of Moldova and Ukraine, said that the European Union attached great importance to the work of the two Tribunals as instruments of post-conflict reconciliation and as mechanisms for combating impunity.

22. She noted with appreciation the large number of judgements that had been rendered and cases initiated by the International Criminal Tribunal for Rwanda in 2009. She also welcomed the measures that had been taken by the International Tribunal for the Former Yugoslavia to speed up its proceedings. Those actions reflected a commitment to the completion of the Tribunals' mandates.

23. The Tribunals should identify further measures that would enable them to complete their work in an efficient and expeditious manner. In that connection, she stressed the need for the Tribunals to continue downsizing wherever possible, as outlined in their completion strategy reports.

24. Lastly, the European Union once again urged all Member States to pay their assessed contributions in full, on time and without conditions.

25. **Ms. Pataca** (Angola), speaking on behalf of the Group of African States, said that the International Criminal Tribunal for Rwanda was to be commended for its exemplary work in bringing fugitives to justice and for its contribution to the restoration and maintenance of peace and stability in Rwanda.

26. The timely arrest and trial of fugitives was crucial to meeting the deadline established by the Security Council for the completion of the Tribunal's work. While the Group agreed that it was important to adhere to that deadline, there were many factors that could cause delays, including the high vacancy rate, issues related to staff retention and the possibility that trials might take longer than expected. The Group was particularly concerned about the Tribunal's consistently high vacancy rate and supported the Advisory Committee's recommendation that efforts to improve the vacancy situation should be intensified so as to ensure that the Tribunal had adequate staffing levels to complete its mandate. Despite the General Assembly's decision, in its resolution 63/256, to link the contracts of staff to the schedule of trials, the Tribunal still struggled to retain competent and experienced staff members. The Group therefore strongly urged the Secretary-General to continue exploring means of retaining the required staff.

27. Recalling that the referral of cases from the Tribunal to national jurisdictions for trial remained a key pillar of the completion strategy, she noted with pleasure that the Office of the Prosecutor was considering additional measures to ensure timely completion of trials. The Group also welcomed the measures taken by the Government of Rwanda to further amend its laws in order to remove any remaining legal hurdles to the transfer of cases from the Tribunal to Rwandan courts.

28. The Group appreciated the cooperative efforts of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia, the Archives and Records Management Section and the Office of Legal Affairs to develop and implement a common, comprehensive and coordinated strategy and project plan for archives and records management across the two Tribunals. In view of the nature of the cases that had been prosecuted by the International Criminal Tribunal for Rwanda, the Group supported measures aimed at retaining the Tribunal's archives in Africa.

29. Recalling that the Tribunal still required the use of its fourth courtroom, which had previously been funded through extrabudgetary resources, she stressed that resources should be made available for that purpose within the budget.

30. **Ms. Bejzyk** (Canada), speaking also on behalf of Australia and New Zealand, said that the three delegations strongly supported the efforts of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia to hold accountable those responsible for committing the most serious crimes under international law, including genocide, crimes against humanity and war crimes. She welcomed the efforts of both Tribunals to implement their respective completion strategies and urged them to continue to identify measures that would enable them to complete their work as efficiently and promptly as possible. The Governments of the three countries would continue to offer the Tribunals their full support in that regard.

31. **Mr. Melrose** (United States of America) said that his Government had been a leading financial and political supporter of the two Tribunals since their inception. It encouraged both Tribunals to continue the swift pace of trials in order to come as close as possible to completing all remaining trials and appeals in 2010, in accordance with the completion strategy approved by the Security Council.

32. His delegation supported the Advisory Committee's recommendations in respect of both Tribunals and was pleased to note that the proposed adjustments in posts and resources were consistent with the anticipated reduction in trial activity during the biennium 2010-2011.

33. With regard to the funding of after-service health insurance and pension liabilities for judges, his delegation supported the Advisory Committee's recommendation that the General Assembly, in keeping with the approach employed across the United Nations system, should appropriate only those resources required to cover the current cost of pensions in the context of the Tribunals' budgets for the biennium 2010-2011.

34. His delegation also noted with pleasure that preparations for the transition to the proposed residual mechanism were being coordinated between both Tribunals and looked forward to learning of further action aimed at ensuring a smooth transition.

35. **Mr. Prokhorov** (Russian Federation) said that the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, which had been established by the Security Council as temporary international courts, had done significant work in bringing to justice those individuals who had committed crimes under international law in the territories of Rwanda and the former Yugoslavia. However, such ad hoc courts should not continue indefinitely to serve as substitutes for national courts.

36. Against the backdrop of the global economic crisis, the Committee should act prudently with regard to the financing of the Tribunals for the biennium 2010-2011, particularly in view of the cost involved in preserving the Tribunals' archives and records and the transfer of their functions to the residual mechanism. In that connection, his delegation supported efforts to speed the pace of trials and streamline the work of the Chambers by twin-tracking a number of cases.

37. Any decisions that might arise from the Security Council's forthcoming deliberations on the Tribunals, scheduled for 16 December 2009, would have a significant impact on the Committee's discussions on the subject.

38. **Mr. Tawana** (South Africa) said that his delegation remained a steadfast supporter of the International Criminal Tribunal for Rwanda. However, it was concerned about the Tribunal's uncertain financial position and would welcome further information from the Controller in that regard.

39. Recalling that two fugitives had been arrested since the presentation of the budget for the biennium 2010-2011, he sought reassurance from the Secretary-General that sufficient resources would be made available for the trial of those fugitives.

40. **Mr. Yamazaki** (Controller), responding to the representative of South Africa, said that the Secretariat would provide delegations with further information on the International Criminal Tribunal for Rwanda in informal consultations.

The meeting rose at 10.50 a.m.